

**FACT SHEET**  
**GENERAL PERMIT FOR**  
**STORMWATER RUNOFF FROM CONSTRUCTION ACTIVITIES**

GENERAL PERMIT NO.: S-MCST-0701-1

DATE: November 16, 2006

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PROPOSED ACTION:

The Kansas Department of Health and Environment has prepared a draft combined Kansas Water Pollution Control general stormwater permit and National Pollutant Discharge Elimination System general stormwater permit for construction activities. The proposed action consists of the re-issuance of the Stormwater Runoff from Construction Activities general permit with various modifications. This permit, when finalized, will replace the current general permit for stormwater discharges from construction activities scheduled to expire December 31, 2006.

Major modifications include the removal of references to large construction activity (5 acres or more) as all construction activity of one (1.0) acre or more of soil disturbance now requires authorization to discharge stormwater runoff, clarification on a complete Notice of Intent submittal, redefining the termination criteria for subdivision projects, and various wording changes to clarify permit requirements.

RECEIVING STREAM:

The receiving streams are all waters of the state of Kansas except; waters within one-half stream mile or less from a Critical Water Quality Management Area; an Exceptional State Water; an Outstanding National Resource Water; or a Special Aquatic Life Use Water unless specifically allowed.

AUTHORIZED ACTIVITY DESCRIPTION:

The draft permit covers discharges of stormwater from construction activities which disturb one or more acres of land. The draft permit also covers certain non-stormwater discharges related to construction activities such as flushing of water hydrants and potable water lines, street cleaning, runoff of irrigation water, and discharges of uncontaminated groundwater.

Stormwater discharges from construction activities (e.g. clearing, grubbing, excavating, grading, etc.) which disturb a cumulative total of one (1.0) acre or more or that are part of a larger common plan of development or sale which will disturb a cumulative total of one (1.0) acre or more are covered.

Owners or operators of construction activities which disturb less than one acre (<1.0 acres), and which are not part of larger common plan of development or sale, must have authorization to discharge stormwater runoff from construction activities under this general NPDES permit when KDHE believes the water quality impact warrants consideration, when contaminated soils will be disturbed, or when KDHE determines the construction activities constitute a significant pollution potential.

Non-stormwater discharges from construction sites authorized under the general permit are limited to flushing water hydrants and potable water lines; rinsing streets or structures without cleansers, detergents, solvents or additives; irrigation to establish vegetation, and discharges of uncontaminated groundwater.

All MS4 operators formerly exempt from permit requirements from construction activities must now obtain authorization to discharge stormwater runoff from construction activities under this general NPDES permit.

UNAUTHORIZED ACTIVITY DESCRIPTION:

The draft general NPDES permit does not authorize stormwater discharges from the following construction activities:

1. A discharge of stormwater runoff from construction activities which violates the provisions of this general NPDES permit
2. Construction activities on sites within Kansas which are located on Indian Country lands;
3. Construction activities which may discharge stormwater runoff one-half stream mile or less from a Critical Water Quality Management Area; an Exceptional State Water; an Outstanding National Resource Water; or a Special Aquatic Life Use Water unless KDHE specifically grants coverage by this general permit;
4. Construction activities which may discharge stormwater runoff which violates the Kansas Surface Water Quality Standards;
5. Construction activities which may discharge stormwater runoff which violates the applicable requirements of a local stormwater pollution prevention program;
6. Construction activities which may adversely affect threatened or endangered species as listed in K.A.R. 115-15-1 et seq.; unless the permittee has specifically consulted with the KDWP;
7. Construction activities which may affect any identified historical or archeological sites listed or eligible for listing on the National Register of Historic Places unless the permittee has specifically consulted with the KSHPO; and
8. Projects that are exempt under the Oil & Gas Exemption (see definition). However, if Authorization under the general permit is requested, a permit will be issued and water quality violations will be enforced.

The draft general permit also does not authorize any other discharge of sewage, pollutants or wastewater to waters of the State including for example:

Hazardous substances or oil from an on-site spill or improper handling and disposal practices;

Wash and/or rinse waters from concrete mixing equipment including ready mix concrete trucks;

Wastewater generated from wet air pollution control equipment for asphalt plants, or the containment of scrubber water in lined ponds; or

Contaminated groundwater.

The draft general NPDES permit does not relieve the permit holder of the obligation to obtain other approvals, permits, licenses, or documents of sanction which may be required by other KDHE programs and other federal, state, or local government agencies.

KDHE reserves the right to deny coverage under this general permit to applicants for stormwater runoff from construction or earth disturbing activities at sites which have contaminated soils which will be disturbed by the construction activity.

#### STORMWATER POLLUTION PREVENTION PLAN REQUIREMENTS AND GUIDELINES:

The draft permit requires the permittee to develop a Storm Water Pollution Prevention Plan (SWP2 Plan) and specifies general requirements and the contents of the SWP2 Plan. The general requirements specified for a complete SWP2 Plan include:

Preparation by a licensed or certified professional;

Select, install, utilize, operate, and maintain BMPs in general accordance with the concepts and methods described in Environmental Protection Agency (EPA) document number EPA 832-R-92-005, entitled *Stormwater Management for Construction Activities - Developing Pollution Prevention Plans and Best Management Practices*, published in September, 1992 and other construction industry standards;

Conditions which require an amendment of the SWP2 Plan;

Contractor notification of the existence of the SWP2 Plan, and contractor certification to abide by the SWP2 Plan;

The contents of the SWP2 Plan, addressing temporary and permanent, structural and non-structural BMPs, sedimentation basins, permanent stormwater management;

Additional BMPs as necessary to prevent contamination of stormwater runoff;

Site inspections of BMPs within 24 hours of the end of a 0.5 inch or greater precipitation event; and

Corrective action within 7 calendar days of the inspection.

#### GENERAL REQUIREMENTS OF THIS PERMIT

To be covered under the draft permit, the permittee is required to comply with the following general requirements:

Records;

Duty to comply;

Duty to provide information and access;

Signatory requirements;

Spill reporting of chemical spills, hazardous substances and oil, sewage, wastes and other miscellaneous substances;

Different permitting requirements for non-compliance or non-qualifying discharges;

Transfer of ownership; and

Individual lot certifications to address compliance with permit requirements during subdivision developments.

## STANDARD CONDITIONS

The draft permit also addresses the following standard conditions:

- Proper operation and maintenance;
- Severability;
- Permit modifications and terminations;
- Change in discharge;
- Discovery during construction;
- Removed substances;
- Civil, criminal and administrative penalties;
- Property rights;
- Duty to mitigate; and
- Bypasses.

## FORMS AND ADMINISTRATIVE PROCEDURES

Once issued, to be covered under the permit, the permittee is required to complete and submit the Notice of Intent along with the first year's permit fee and receive a signed and dated Authorization from KDHE. To minimize administration, the first page of the NOI will be used as the authorization.

To maintain the Authorization to discharge stormwater runoff from construction activities, the permittee is required to achieve and maintain compliance with the current general permit requirements and pay the annual permit fee.

Other support documents include an Executive Summary, Notice of Intent Instructions, a Notice of Termination; Notice of Transfer of Ownership; Rainfall Erosivity Waiver Application and guidance; Contractor's Certification Form; Individual Lot Certification; and Definitions and Acronyms.

Additional reference material will be available to supplement the instructional material provided in the program documents.

## WAIVERS

The draft permit offers the rainfall erosivity waiver for sites with construction activities disturbing between one and five acres with a short duration having a small potential of rainfall events causing sediment and other pollutants to be discharged. The requirements of the general NPDES permit may be waived for these construction activities if the rainfall erosivity factor (R) is less than 5 during the construction period.